

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES OF AMERICA,	.	CASE NO. 4:22-CR-612-1
PLAINTIFF,	.	
V.	.	HOUSTON, TEXAS
EDWARD CONSTANTINESCU,	.	FRIDAY, DECEMBER 16, 2022
DEFENDANT.	.	10:12 A.M. TO 02:11 P.M.
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ARRAIGNMENT AND COUNSEL DETERMINATION HEARING

**BEFORE THE HONORABLE CHRISTINA A. BRYAN
UNITED STATES MAGISTRATE JUDGE**

APPEARANCES: SEE NEXT PAGE

ELECTRONIC RECORDING OFFICER: SHANNON HOLDEN

CASE MANAGER: MELISSA MORGAN-FAIRCLOTH

OFFICIAL INTERPETER: NONE PRESENT

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V.	.	
DANIEL KNIGHT,	.	
DEFENDANT.	.	

ARRAIGNMENT AND COUNSEL DETERMINATION HEARING

BEFORE THE HONORABLE CHRISTINA A. BRYAN
UNITED STATES MAGISTRATE JUDGE

Appearances:

For the GOVERNMENT: **THOMAS CARTER, III, ESQ.**
Assistant United States Attorney
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For DEFENDANT KNIGHT: **CORDT AKERS, ESQ.**
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Surgoinsville, TN 37873

1 Houston, Texas; Friday, December 16, 2022; 10:12 a.m.

2 **(All parties appearing telephonically)**

3 **THE COURT:** All right. *United States versus Edward*
4 *Contantinescu and Daniel Knight.*

5 **(Pause in the proceeding.)**

6 **THE COURT:** All right. Let's start with Mr. Knight.

7 Mr. Knight, you are here for a counsel determination
8 hearing. I told you you did not qualify to receive court-
9 appointed counsel and instructed you to appear today with
10 retained counsel or to inform me of the status. And have you
11 regained counsel?

12 **DEFENDANT KNIGHT:** Yes, I have.

13 **MR. AKERS:** Cordt Akers for Daniel Knight, your
14 Honor.

15 **THE COURT:** Thank you, Mr. Akers.

16 And you've been retained, sir?

17 **MR. AKERS:** I have, your Honor.

18 **THE COURT:** All right.

19 And have you filed a notice of appearance yet,
20 Mr. Akers?

21 **MR. AKERS:** I have.

22 **THE COURT:** You have?

23 **MR. AKERS:** Yes, your Honor.

24 **THE COURT:** Okay. Great.

25 I don't think that there's anything else we need to

1 address with Mr. Knight.

2 **MR. AKERS:** We -- we haven't done the arraignment.

3 **THE COURT:** You have not.

4 **MR. AKERS:** And we're ready to proceed on that.

5 **THE COURT:** Oh, and you need the Brady Order, too.

6 **(Pause in the proceeding.)**

7 **THE COURT:** Mr. Knight is charged in Count One only?

8 **MR. AKERS:** He is, your Honor.

9 **THE COURT:** All right.

10 So, first, under Rule 5(f), counsel for the United
11 States is ordered to comply with its disclosure obligations
12 under Brady versus Maryland and its progeny. The failure to do
13 so may result in the dismissal of charges exclusive of
14 evidence, adverse jury instructions, contempt proceedings and
15 sanctions.

16 **(Pause in the proceeding.)**

17 **THE COURT:** Mr. Knight, you are -- I know you have a
18 copy of the indictment because you received on at your Initial
19 Appearance, correct?

20 **DEFENDANT KNIGHT:** Yes, ma'am.

21 **THE COURT:** And I have told you that you are charged
22 in Count One with conspiracy to commit securities fraud, in
23 violation of 18 United States Code §1349. Do you understand
24 that charge?

25 **DEFENDANT KNIGHT:** Yes, your Honor.

1 **THE COURT:** Have you had a copy to go over the entire
2 indictment and ask any questions that you have of the charges
3 to your lawyer?

4 **DEFENDANT KNIGHT:** Yes, your Honor.

5 **THE COURT:** And are you waiving formal reading of the
6 indictment?

7 **MR. AKERS:** We are, your Honor.

8 **THE COURT:** And do you understand that if you're
9 convicted on Count One, you face up to 25 years in prison, a
10 fine of up to \$250,000, a 5 year term of supervised release,
11 and a \$100 mandatory Special Assessment?

12 **DEFENDANT KNIGHT:** Yes, your Honor.

13 **THE COURT:** All right. Are you ready to enter your
14 formal plea to the charge in Count One of the indictment?

15 **DEFENDANT KNIGHT:** Yes.

16 **THE COURT:** And how do you plead?

17 **DEFENDANT KNIGHT:** Not guilty.

18 **THE COURT:** We'll enter a not guilty plea on your
19 behalf.

20 The case is assigned to Judge Hanen. It is set for
21 trial on February 13th at 9:00 a.m. Motions are due January
22 3rd. Responses, January 17. Pretrial conference is February
23 6th at 8:30. And we've got an estimate of three weeks of
24 trial.

25 Is there anything else we need to cover with

1 Mr. Knight?

2 **MR. AKERS:** The Brady order.

3 **THE COURT:** I did it.

4 **MR. AKERS:** Or did I miss that? I'm sorry.

5 **THE COURT:** Yeah. That's okay.

6 **MR. AKERS:** Thank you for your time, your Honor.

7 **THE COURT:** All right. Thank you. You're excused.

8 Thank you.

9 **(Pause in the proceeding.)**

10 **THE COURT:** All right. Mr. Contantinescu, are you
11 represented by counsel?

12 **DEFENDANT CONTANINESCU:** I'm still -- I'm still
13 dealing with that. I should have him by early next week.

14 **(Pause in the proceeding.)**

15 **THE COURT:** Okay.

16 **(Pause in the proceeding.)**

17 **THE COURT:** We're going to have to set you for a
18 hearing. I guess we'll do it on, what day can we do that?

19 **(Pause in the proceeding.)**

20 **THE COURT:** Okay. For his counsel determination
21 hearing. It's very important that you get your counsel
22 retained as soon as possible. Because there are things that --

23 **DEFENDANT CONTANINESCU:** I -- I do. They just
24 couldn't make it.

25 They're -- they're based in New York. So they just

1 couldn't -- it just happened so quick. They'll be here Monday.

2 **THE COURT:** Okay. So your counsel is available to
3 appear on Monday.

4 **DEFENDANT CONTANINESCU:** That's what they -- I don't
5 want to --

6 **THE COURT:** Okay.

7 **DEFENDANT CONTANINESCU:** By -- by next week. They
8 said they're coming to see me, I'm sorry, Tuesday and
9 Wednesday.

10 **THE COURT:** All right.

11 **MR. CARTER:** Your Honor, if I may.

12 **THE COURT:** Yes, Mr. Carter.

13 **MR. CARTER:** That leaves the Government in a very
14 awkward position. There are some significant bond restrictions
15 we would ask for now immediately. And I can get into them and
16 the reasons why.

17 But if he does not have determination, I'm going to
18 have to move for detention.

19 (**Pause in the proceeding.**)

20 **DEFENDANT CONTANINESCU:** I can get him on a Zoom
21 call.

22 **THE COURT:** Let's reset this for -- I've got hearings
23 all the way through.

24 Let's reset it -- do we have new arrests yet?

25 **CASE MANAGER MORGAN-FAIRCLOTH:** Six.

1 **THE COURT:** Six.

2 **(Pause in the proceeding.)**

3 **THE COURT:** Let's reset it for 12:30. There's some
4 chance that I may not be able to reach you at 12:30, in which
5 case I'll reset you for 2 o'clock.

6 **DEFENDANT CONTANINESCU:** I'll be here, Judge.

7 **THE COURT:** You need to contact your attorney. We
8 can do it -- we could do this -- you can appear in a criminal
9 case remotely or by Zoom.

10 I think in this instance what would be better is to
11 have your counsel appear by telephone in the courtroom, because
12 everyone else is going to be in the courtroom.

13 I'm not going to have an opportunity to get a Zoom
14 camera set up in here. And I don't do hybrid in-person and
15 Zoom hearings. But I'm going to set you for 12:30. Talk to
16 your counsel. They need to file an appearance. If -- if -- if
17 you've retained counsel, they need to file an appearance.

18 **DEFENDANT CONTANTINESCU:** Thank you.

19 **THE COURT:** And we'll come back later this afternoon
20 at 12:30.

21 If we can't get to you -- can't reach you by 12:30,
22 we'll set you on the 2 o'clock docket. And you'll -- we'll
23 address it after the initial arrests.

24 **DEFENDANT CONTANINESCU:** Sure.

25 **THE COURT:** All right.

1 **THE COURT:** Thank you.

2 **MR. CARTER:** Thank you, your Honor.

3 **THE COURT:** All right. You're excused. Thank you.

4 **(Recess taken from 10:18 a.m. to 01:47 p.m.)**

5 **THE COURT:** All right. Mr. Ford, we have
6 Mr. Constantinescu in the courtroom and present at the bench.
7 We have Mr. Carter present in the courtroom at the bench. And
8 we are ready to proceed.

9 I've reviewed the Pretrial Services Report that was
10 completed in the Western District of Texas. And, based on this
11 Pretrial Services Report, I definitely think there needs to be
12 an adjustment in the no bond conditions of release, the --
13 the -- his net worth and monthly income pose a significant, and
14 his ties to a foreign country, and property ownership in two
15 foreign countries, all of that poses serious risk of flight.

16 And it can be addressed with conditions, but we -- I
17 don't think the current conditions appropriately address those
18 issues.

19 **(Pause in the proceeding.)**

20 **THE COURT:** Are you with us, Mr. Ford?

21 **MR. FORD:** We -- we are, your Honor, amenable to -- a
22 bond. But if we cannot, you know, we -- we -- we haven't been
23 able to determine by talking with Mr. Carter, what is the
24 amount.

25 I -- I -- I will say from our perspective, I -- I

1 don't think the client has been living for ten years in -- in
2 Houston, or around ten -- ten years in the Houston area.

3 I -- I -- I don't think he's -- he has significant
4 connections to a foreign country. Certainly doesn't have a
5 foreign passport. His -- his passport does have, you know,
6 has -- has been surrendered.

7 Obviously, he has the ankle bracelet on now. In
8 addition, you know, as you saw this morning, he willing walked
9 himself into the Court to participate in the counsel
10 determination hearing.

11 So from our perspective, we just don't see
12 Mr. Constantinescu as a -- as -- as having a very significant
13 risk of flight.

14 **THE COURT:** Well I appreciate your perspective. And
15 I'm looking at the information showing he owns property in
16 Mexico and Columbia. He is originally from Bucharest, Romania.
17 He's a naturalized United States citizen. And he has a very
18 high net worth and a very high, you know, monthly income.

19 His monthly income may exceed my annual income as a
20 public employee. So those are all factors that we look at
21 regarding risk of flight, including the charges and the -- the
22 amount of prison time that someone might be facing if
23 convicted.

24 So I do believe there's risk of flight. It can be
25 addressed, obviously. And I've already said we're not looking

1 at an issue of detention, we're just looking at appropriate
2 conditions of release and bringing these conditions for
3 Mr. Constantinescu in line with what we do in this District and
4 in this Court with individuals who have the access to the types
5 of resources that he has.

6 And I mean, property ownership in a foreign country,
7 more than one foreign country, those are all things I have to
8 consider. So --

9 **DEFENDANT CONSTANTINESCU:** Ma'am, it's just one
10 country. I don't have anything in Columbia.

11 **THE COURT:** Okay.

12 Mr. Carter, what are you asking for in terms of a
13 bond?

14 **MR. CARTER:** Your Honor, I think you -- you've hit on
15 the main part. My -- my -- my -- my request would be higher
16 than what you gave Mr. Rybarczyk yesterday. This is the
17 ringleader in terms of loss amounts. He's -- far exceeds the
18 rest to his credit.

19 I would say two million with ten percent down.

20 **THE COURT:** Did you heard that Mr. Ford?

21 **MR. FORD:** Yeah.

22 I -- I mean, one thing. I, certainly based on what --
23 what the allegations are in the indictment, there's nothing to
24 suggest that Mr. Constantinescu could be, you know, decently
25 described as a ringleader.

1 And I -- I will just say, for -- for, you know, your
2 consideration that he is -- he's only been charged with 3 of
3 the 12 counts. And I believe at least one co-Defendant
4 received a -- a \$1 million bond who's been charged with -- with
5 more counts than Mr. Constantinescu.

6 The -- the -- the nature of the purported statements
7 that he made, we don't find them to be particularly, you know,
8 what we'll -- what I -- truthfully, we're -- we're a little
9 baffled as how they could constitute securities fraud to begin
10 with. But I'll -- I'll leave it with that with saying that he
11 has only had -- had the three -- the -- the three counts
12 against him.

13 Whereas, you know, a co-Defendant received a 1
14 million bond. So we -- we would propose that that same amount,
15 \$1 million, 10 percent.

16 **THE COURT:** Okay. Well, I -- I'm -- I look at each
17 individual's net worth, and assets. And obviously, the purpose
18 of the bond is to put assets at risk to prevent the risk of
19 flight.

20 So I am going to impose the \$2 million bond, secured
21 by a \$200,000 cash deposit.

22 (**Pause in the proceeding.**)

23 **THE COURT:** I'm going to impose the same conditions
24 that Mr. Constantinescu not sell or transfer assets without
25 giving notice to the United States, and an opportunity to the

1 United States to object to the transfer of those assets.

2 **(Pause in the proceeding.)**

3 **THE COURT:** That would include the --

4 **MR. FORD:** If, your Honor --

5 **THE COURT:** That would include the vehicles. I saw,
6 I think, a Bentley. I can't remember what was all -- what all
7 was on the list.

8 **(Pause in the proceeding.)**

9 **(Voices whispering.)**

10 **THE COURT:** Hang on just one second.

11 **(Pause in the proceeding.)**

12 **THE COURT:** Okay. Now I have the list.

13 That would include a 2018 black Rolls Royce Don, a
14 2022 Rolls Royce Cullinan, 2021 black Lamborghini Urus, and a
15 2020 silver Mercedes Benz jeep.

16 However, there is one condition of the -- of bond
17 which I think needs to be relaxed. And that condition is that
18 Mr. -- the Western District said he could not trade in
19 securities at all.

20 What is -- he lists his employment as self-employed.
21 Is his self-employment work as a day trader, Mr. Ford?

22 **MR. FORD:** Yes. That is his only source of --

23 **THE COURT:** All right. So, yeah. Go ahead.

24 **MR. FORD:** The only thing I would say as -- as far
25 as, you know, his self-employment, that's what -- that's what

1 it is.

2 **THE COURT:** Okay.

3 **MR. FORD:** His only source.

4 **THE COURT:** And do you -- do -- are you aware that
5 under the conditions of release he was given in the Western
6 District of Texas, he's not allowed to do any trading in
7 securities whatsoever?

8 **MR. FORD:** Yeah. And we -- we have -- we -- we very
9 strongly object to that condition.

10 **THE COURT:** Okay.

11 So I'm going to modify that condition by saying he
12 may trade as a day trader. He may not communicate with others
13 about his trading, his trades, his trading position. He may
14 not post on social media. And I'm just going to say, "May not
15 post on social media." Because we've already had an issue with
16 another Defendant in this case about whether something -- there
17 were postings on social media and I'm just -- it's much easier
18 for each Defendant to understand what their obligations are
19 under their conditions of release to say no posting on social
20 media.

21 So he may work as a day trader. Obviously, a part of
22 his conditions that he not violate any federal, state, or local
23 law while on conditions of release.

24 So, obviously, he must legally trade in securities.
25 But he may not communicate with anyone regarding those trades.

1 **(Pause in the proceeding.)**

2 **THE COURT:** Mr. Carter raised an issue about drug
3 testing. And I thought drug testing was recommended in the
4 Western District of Texas, but it was not included on the bond
5 conditions. There is information in the Pretrial Services
6 Report which would indicate the need for that.

7 So I'm going to say, to the extent it is recommended
8 by Pretrial Services, he will have to submit to drug testing.
9 They will do an intake, because he's going to be -- well, do
10 you -- where do you reside?

11 **DEFENDANT CONSTANTINESCU:** It's like five minutes
12 away.

13 **THE COURT:** Okay.

14 **DEFENDANT CONSTANTINESCU:** But also I have --

15 **THE COURT:** Okay.

16 **DEFENDANT CONSTANTINESCU:** -- my house in Montgomery.

17 **THE COURT:** Okay.

18 So he resides in the Southern District of Texas.
19 He's going to be supervised here.

20 So they'll do an intake interview with him regarding
21 any alcohol -- the drug or alcohol substance issues. And, to
22 the extent they think it's necessary, he will be required to
23 submit to any testing that they think needs to be done.

24 **(Pause in the proceeding.)**

25 **THE COURT:** I think that that covers everything that

1 we discussed earlier.

2 **MR. CARTER:** Briefly, your Honor.

3 Restriction to the Southern District of Texas. Is
4 that included as well?

5 **THE COURT:** Does Mr. Constantinescu have any -- I
6 think that was already in his bond conditions. But let me see.

7 **MR. CARTER:** Yes.

8 **THE COURT:** Does he have the need to travel outside
9 the Southern District of Texas for work or?

10 **MR. FORD:** No. It's my -- my understanding is that
11 he does not.

12 **THE COURT:** Okay. So his travel's going to be
13 restricted to the Southern District of Texas unless pre-
14 approved by Probation. If there's some sort of family trip for
15 a vacation or something that is pre-approved, then that's a
16 different issue.

17 But without pre-approval, restriction to the Southern
18 District of Texas.

19 **MR. FORD:** And -- and just to clarify, your Honor,
20 will that include the standard carve-outs of if he has -- has
21 to leave the Southern District, for example, for a medical
22 appointment, to meet with legal counsel, and so forth?

23 **THE COURT:** Yes. But it needs to be pre-arranged
24 with Probation.

25 I mean, does he not live in --

1 **MR. FORD:** Okay.

2 **THE COURT:** -- this District? I understand --

3 **MR. FORD:** No, he does.

4 **THE COURT:** -- you're in a different district, so
5 maybe there might be a meeting with you. But our -- does he
6 have medical appointments outside this District?

7 **MR. FORD:** Not necessarily, but I was just really
8 just, you know, seeking clarification for the benefit of --
9 of -- of my client.

10 **THE COURT:** All right.

11 **MR. FORD:** -- on behalf of my client.

12 **THE COURT:** All right. As -- it's got to be pre-
13 approved and I think there should be -- well, it's got to be
14 pre-approved by U.S. Probation.

15 (**Pause in the proceeding.**)

16 **THE COURT:** Yes.

17 **MR. FORD:** Understood. Thank you.

18 **MR. CARTER:** Not to belabor the point, your Honor,
19 but Agent Dylan has graciously agreed to pick up the guns.
20 Which we do not know where they are at this point.

21 If the Court would be interested in having FBI Agent
22 Dylan arrange that. Because at this point, I'm not sure where
23 they are.

24 **THE COURT:** I don't know that I have any authority to
25 do that. If you and Mr. Ford and Mr. Constantinescu want to

1 agree with that --

2 **MR. CARTER:** I'll talk to Mr. Ford.

3 **THE COURT:** -- that's fine.

4 But I don't have any authority to tell someone that
5 the FBI can take their weapons. As long as they are not in the
6 place where he -- any location where he is, as long as he is
7 never in the same place as weapons, he's in compliance with his
8 conditions of release. Okay?

9 **MR. CARTER:** We'll -- we'll -- we'll take care of
10 that one. Thank you.

11 **THE COURT:** Okay. That means if you go to someone's
12 house, if they have weapons, you're out of compliance.

13 **MR. CARTER:** Gotcha.

14 **THE COURT:** All right. Anything else?

15 **MR. CARTER:** When should the cash bond be -- be made
16 by, Judge?

17 **THE COURT:** Can you -- oh, today's Friday. Can you
18 make the deposit by close of business on Monday?

19 **DEFENDANT CONSTANTINESCU:** I need to start working
20 again. Because, like I said, I'm a day trader. And I haven't
21 been able to trade. And that's why I -- I don't believe --

22 **THE COURT:** I know, but I'm looking at your report.
23 And I -- I see the accounts that are identified and the amounts
24 there in them.

25 So it's just a --

1 **DEFENDANT CONSTANTINESCU:** But those are -- I can't
2 sell those assets.

3 **THE COURT:** -- question of --

4 **DEFENDANT CONSTANTINESCU:** I can't do anything. On
5 Monday we'll do it.

6 **THE COURT:** Hold on. Hold on.

7 **DEFENDANT CONSTANTINESCU:** Sorry.

8 **THE COURT:** Your attorney doesn't want you to --

9 **DEFENDANT CONSTANTINESCU:** Okay.

10 **THE COURT:** Go.

11 **MR. FORD:** Mr. Constantinescu, let's -- let's just
12 hold on.

13 We were going to request ten days for us to obtain
14 the -- to obtain the bond.

15 (**Pause in the proceeding.**)

16 **THE COURT:** Well I'm looking at his personal checking
17 account and his personal savings account. Those are obviously
18 not encumbered by his --

19 **DEFENDANT CONSTANTINESCU:** Those are wrong.

20 **THE COURT:** Look --

21 **MR. FORD:** Yeah. That -- that -- not -- not --

22 Your -- your Honor, if I -- if I may. The -- the
23 reason -- the reason we raised this question, I'm not sure what
24 documents you're looking at, cause I don't have them in front
25 of me. So I don't know if they accurately reflect current

1 account balances.

2 I -- I do understand that at least some of my
3 client's accounts have restrictions on them where the wires,
4 you know, can -- can take some time before they can leave.
5 And -- and I think that's a standard thing where it could take
6 three days.

7 So even if we -- it -- it could be that if we
8 initiate Mr. Constantinescu he won't be able to transfer even
9 on Monday. It could be, you know, it could be until the end of
10 the week that he's able to actually get access to the money
11 after the transfer.

12 I -- I -- I don't that (telephonic static)
13 (indiscernible) this call, but I do know there's been
14 restrictions, especially on a transfer of that size. So that's
15 why I'm requesting the ten days.

16 There's the additional potential caveat. I didn't
17 know that there is, you know, this is a timing on -- on bank
18 transfers impacted by the holidays.

19 I don't know if that's the case. I'm speculating.
20 But I -- I am concerned that about not being a Friday has the 3
21 p.m. putting that condition on him to apply -- to comply with
22 it by Monday.

23 I just don't see it as a practical matter that is
24 feasible. And that's why I asked for ten days.

25 **(Pause in the proceeding.)**

1 **THE COURT:** Can he make half of the deposit by
2 Monday?

3 **(Pause in the proceeding.)**

4 **MR. FORD:** I just -- I -- I -- I think we're going to
5 run into the same --

6 **THE COURT:** All right.

7 **MR. FORD:** -- system as being difficulty with --

8 **THE COURT:** All right.

9 **MR. FORD:** -- the size of the -- and the three day
10 restriction. I -- I -- I'm not certain, but it's my
11 understanding as it stands, at least some of his accounts, and
12 it -- it could potentially be up to three business days before
13 he would be able to use --

14 **THE COURT:** Okay.

15 **MR. FORD:** -- that's money if that's the latest we --

16 **THE COURT:** All right.

17 **MR. FORD:** Absolute earliest I think would be
18 Thursday that we could -- we could -- I -- I think the ten
19 days, I would feel more comfortable just having that buffer.

20 **THE COURT:** Here -- here's what I'm going to do.

21 I'm going to give him until the close of business on
22 the 23rd. If he absolutely can't get it done by then, file a
23 notice to the Court explaining the problem. And we'll address
24 it at that time.

25 **MR. FORD:** Okay. Absolutely, Judge.

1 **THE COURT:** All right. Anything else that we need to
2 cover with Mr. Constantinescu?

3 **MR. CARTER:** Not for the Government, your Honor.

4 **CASE MANAGER MORGAN:** Brady.

5 **THE COURT:** Oh, we'll do the Brady Order not that you
6 have appeared, Mr. Ford.

7 Under Rule 5(f), counsel for the United States is
8 ordered to comply with its disclosure obligations under Brady
9 versus Maryland and its progeny. The failure to do so may
10 result in the dismissal of charges, exclusion of evidence,
11 adverse jury instructions, and sanctions, and contempt
12 proceedings.

13 All right. Mr. Constantinescu, you're under all of
14 the same conditions that were entered in the Western District,
15 plus -- well, you're under the same conditions that were
16 entered in the Western District with the exception that I am
17 eliminating the condition that you not be allowed to do any
18 trading in securities.

19 I'm going to allow you to trade securities as a day
20 trader. You may not communicate with anyone about those
21 trades. I'm maintaining the condition that you not post on
22 social media.

23 **DEFENDANT CONSTANTINESCU:** Thank you.

24 **THE COURT:** In addition, by December 23rd at close of
25 business, you must deposit the \$200,000 for your \$2 million

1 bond. You must submit to any drug testing that is recommended
2 by Pretrial Services.

3 And you may not transfer or sell assets with a value
4 of over \$5,000 without providing notice to the United States
5 and giving them an opportunity to object. You may not obtain
6 any new passport.

7 And those are the -- those are the conditions. Were
8 you informed in the Western District of the consequences of
9 violating conditions of release?

10 **DEFENDANT CONSTANTINESCU:** Yes.

11 **THE COURT:** All right. Those same consequences
12 apply.

13 **MR. FORD:** Excuse me, your Honor. If I --

14 **THE COURT:** Yes, Mr. Ford.

15 **MR. FORD:** I -- I apologize (indiscernible.)

16 If I heard you correct -- correct, there was a
17 restriction on -- on transfers above \$5,000. Is there a way we
18 could get a carve out for the payment of legal fees?

19 **THE COURT:** Yes, you may -- legal fees are excepted.
20 And when I say no transfers, I'm excluding fixed, regular
21 monthly expenses.

22 So to the extent there's a mortgage, or regular
23 payments, those may continue to be made. The \$5,000 limit just
24 occurs to any unusual transfer other than legal fees.

25 So that the purpose of the condition is to prevent

1 the sale or transfer of assets that --

2 **MR. FORD:** Okay.

3 **THE COURT:** So is that clear --

4 **MR. FORD:** Understood.

5 **THE COURT:** Is that clear enough?

6 **MR. FORD:** Yes. Thank -- thank you.

7 **THE COURT:** All right. All right.

8 You're under the same -- you -- the same warnings
9 about violating your conditions apply. All right.

10 **DEFENDANT CONSTANTINESCU:** Thank you.

11 **THE COURT:** Yes, Mr. Thomas? Anything else?

12 **MR. CARTER:** No, your Honor.

13 **THE COURT:** Okay. I mean, Mr. Carter. I'm sorry.

14 All right. Unless there's -- has he been arraigned?
15 All right.

16 **MR. CARTER:** He has not.

17 **THE COURT:** All right.

18 **MR. FORD:** He has not been.

19 **THE COURT:** Has he met with you in person, Mr. Ford?

20 **MR. FORD:** We -- we've been able to meet over Zoom.
21 We have not met in person. I -- I'm going to be on a flight
22 headed back to Texas this evening.

23 **THE COURT:** Okay. Then --

24 **(Pause in the proceeding.)**

25 **THE COURT:** -- it sounds like he, perhaps, is not

1 ready for arraignment, because he hasn't had sufficient time to
2 meet with you regarding the charges in the indictment.

3 **MR. FORD:** We -- we -- if -- we are -- we are
4 prepared to move forward with you with the arraignment.

5 **THE COURT:** With the arraignment? All right.

6 Do you waive a formal reading of the indictment,
7 Mr. Ford?

8 **MR. FORD:** Yes.

9 **THE COURT:** All right. Mr. Constantinescu, were you
10 given a copy of the indictment when you appeared in the Western
11 District of Texas?

12 **DEFENDANT CONSTANTINESCU:** Yes.

13 **THE COURT:** And so you have a copy of the indictment.

14 Have you had the chance to read the entire indictment
15 and discuss the charges that have been brought against you in
16 the indictment with your attorney?

17 **DEFENDANT CONSTANTINESCU:** Yes.

18 (**Pause in the proceeding.**)

19 **THE COURT:** You are charged in Counts, I believe it's
20 Counts One, Nine, Ten, Eleven, and Twelve. Is that correct,
21 Mr. Carter?

22 **MR. CARTER:** If the Court so represents.

23 **THE COURT:** Well the -- the charging sheet says
24 Counts One through Twelve. But when I looked at the
25 indictment, it looked like several of those counts are --

1 **MR. CARTER:** That charging sheet's incorrect.

2 **THE COURT:** Okay.

3 **MR. CARTER:** I think it's --

4 **THE COURT:** I think he's charged in One, Nine, Ten,
5 Eleven, and Twelve.

6 **MR. CARTER:** That's correct.

7 **THE COURT:** All right.

8 Mr. Constantinescu, you are charged in Count One with
9 conspiracy to commit securities fraud in violation of 18 United
10 States Code §1329. You are charged in Count Nine with
11 securities fraud, in violation of Title 18 United States Code
12 §1348 and §2. You're charged with other co-Defendants in both
13 Count One and Counts Nine, Ten, and Eleven. Those co-
14 Defendants are Perry "PJ" Matlock, John Rybarczyk, Gary Deel,
15 Stefan Hrvatin, Tim Cooperman, and Mitchell Hennessey. And you
16 are charged in Count Twelve.

17 You're the sole Defendant charged in Count Twelve.
18 And you are charged with engaging in monetary transactions in
19 property derived from specified unlawful activity, in violation
20 of 18 United States Code §1957.

21 And if you are convicted -- do you understand all the
22 charges that have been brought against you in the indictment.

23 **DEFENDANT CONSTANTINESCU:** Yes.

24 **THE COURT:** In Count One if you are convicted, you
25 face up to 25 years in prison, a fine of up to \$250,000, a 5

1 year term of supervised release and a \$100 mandatory Special
2 Assessment.

3 If you are convicted on Counts Nine, Ten, and Eleven,
4 as to each count you face up to 25 years in prison, a fine of
5 up to \$250,000, a 5 year term of supervised release, and a \$100
6 mandatory Special Assessment per count of conviction.

7 And if you are convicted on Count Twelve, you face up
8 to 10 years in prison, the same \$250,000 fine, a 3 year term of
9 supervised release, and the same mandatory \$100 Special
10 Assessment per count of conviction.

11 Do you understand all the penalties?

12 **DEFENDANT CONSTANTINESCU:** Yes.

13 **THE COURT:** All right. Are you ready to enter your
14 formal plea to the charges in Counts One, Nine, Ten, Eleven,
15 and Twelve?

16 **DEFENDANT CONSTANTINESCU:** Yes.

17 **THE COURT:** How do you plead, sir?

18 **DEFENDANT CONSTANTINESCU:** Not guilty.

19 **THE COURT:** We're going to enter a not guilty plea on
20 your behalf.

21 This case is assigned to Judge Hanen. And somewhere
22 here I have a scheduling order. The trial setting is currently
23 February 13th of 2023 at 9:00 a.m. The motions are due by
24 January 3rd, 2023, responses by January 17th, 2023, Pretrial
25 Conference is February 6th, 2023 at 8:30 a.m., and I believe we

1 had -- did you tell me three weeks for trial?

2 **MR. CARTER:** That's approximately, yes, your Honor.

3 **THE COURT:** Roughly three weeks for trial.

4 Is there anything else that we need to cover? And
5 Mr. Ford, the scheduling order has specific instructions that
6 Judge Hanen requires. So you'll be able to see that on the --
7 on the docket after this arraignment.

8 **(Pause in the proceeding.)**

9 **THE COURT:** Can you hear me?

10 **MR. FORD:** Yes, your Honor, just a -- there's a
11 schedule that you have just given. We -- we will not be
12 prepared for -- for trial at that time.

13 **THE COURT:** That -- you'll address that with Judge
14 Hanen. I'm -- I suspect there will be other Defendants in the
15 same position.

16 **MR. FORD:** I -- yes.

17 **THE COURT:** Okay. All right. Anything else that we
18 need to cover with Mr. Constantinescu before he fills out the
19 additional bond paperwork here.

20 **MR. FORD:** Nothing further.

21 **THE COURT:** All right. You're all excused. Thank
22 you.

23 You'll fill out additional bond paperwork over here,
24 Mr. Constantinescu.

25 **DEFENDANT CONSTANTINESCU:** So I just stay here?

1 **THE COURT:** Yes. Right there at that table.

2 **DEFENDANT CONSTANTINESCU:** Okay. Thank you.

3 **MR. CARTER:** Thank you, your Honor.

4 **THE COURT:** All right. Thank you.

5 Thank you, Mr. Ford. You're excused.

6 **(This proceeding was adjourned at 02:11 p.m.)**

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CERTIFICATION

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14 I certify that the foregoing is a correct transcript from the
15 electronic sound recording of the proceedings in the above-
16 entitled matter.

17

18

19

/s/Cheryl L. Battaglia

March 18, 2023

20

Transcriber

Date

21

4:22-CR-612-1

22

12/16/22 - 03/18/23